Va Coupon Cases

114-269

114-270

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1883.

No. ~~900~~ 588

THOMAS POINDEXTER, PLAINTIFF IN ERROR,

vs.

SAMUEL C. GREENHOW, TREASURER OF THE CITY OF RICHMOND, VIRGINIA.

IN ERROR TO THE HUSTING'S COURT OF THE CITY OF RICHMOND, STATE OF VIRGINIA.

FILED SEPTEMBER 22, 1883.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1883.

No. 969.

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vs.

SAMUEL C. GREENHOW, TREASURER OF THE CITY OF RICHMOND, VIRGINIA.

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1 STATE OF VIRGINIA, *City of Richmond*, } to wit:

Pleas at the court-house of the city of Richmond, before the Hustings Court of the said city, on the 24th day of May, 1883.

Be it remembered, that heretofore, to wit, on 12th day of May, 1883, Thomas Poindexter, by Messrs. William L. Royall and E. C. Minor, his attorneys, filed in the clerk's office of the hustings court of the city of Richmond an appeal from the judgment of the police justice of the said city of Richmond upon a warrant in detinue, in which he, the said Thomas Poindexter, was plaintiff, and Samuel C. Greenhow was defendant, upon which warrant judgment had been rendered by the said police justice dismissing the same, and from which judgment the said Thomas Poindexter had appealed to the said hustings court of the said city; which warrant, with the return thereon, together with the judgment of the said police justice, and his certificate granting an appeal therefrom to the said hustings court, are in the words and figures following, to wit:

STATE OF VIRGINIA, *City of Richmond*, } to wit:

To the high constable of the city of Richmond:

In the name of the Commonwealth of Virginia, I command you to summon Samuel C. Greenhow to appear before me, or some other justice of the peace in and for said city, at the police court, in the Odd Fellows' Hall, in said city, on the 27th day of April, 1883, at 12 o'clock m., to answer the claim of Thomas Poindexter in detinue for one office desk, of the value of thirty dollars,
2 which the said Thomas Poindexter claims to be his property, and which, as he alleges, the said Samuel C. Greenhow unjustly detains from him; and then and there have this warrant.

Given under my hand this 26th day of April, 1883.

J. D. WHITEHEAD, *J. P.*

(Returned:) "Executed April 26, 1883, on S. C. Greenhow, by delivering to him a true copy of the within.

"E. HOBZINGER, *H. C. C. R.*

"This 4th day of May, 1883."

THOMAS POINDEXTER *vs.* SAMUEL C. GREENHOW.

It appearing that this is an action brought by the plaintiff for the discharge of a levy made by the collector of taxes of the city of

Richmond upon certain property belonging to the plaintiff, for the satisfaction of a tax bill in the hands of said collector, the said action is dismissed by me for want of jurisdiction.

D. C. RICHARDSON,
Police Justice.

In police justice's court, city of Richmond, May 12th, 1883.

THOMAS POINDEXTER *vs.* S. C. GREENHOW.

The said Thomas Poindexter having prayed an appeal from my judgment in this cause, and tendered W. L. Royall and E. C. Minor as his surety, who thereupon undertook, as such surety, for the payment of all costs and damages in case the same shall be affirmed, an appeal from my said judgment is granted the said Thomas Poindexter to the next term of the hustings court.

Given under my hand this 12th day of May, 1883.

D. C. RICHARDSON,
Police Justice.

3 And now at this day, to wit, at a hustings court, held for the city of Richmond, at the court-house, on the 24th day of May, 1883, (being the same day and year first hereinbefore written,) came the parties by their attorneys, and this cause being docketed by consent, and submitted to the court upon an agreed statement of facts, which agreed statement of facts is as follows, to wit:

THOMAS POINDEXTER, Plaintiff,
vs.
SAMUEL C. GREENHOW, Defendant.
} On a warrant in detinue.

Agreement of Facts.

It is agreed, between the plaintiff and the defendant herein, that the plaintiff is a resident of the city of Richmond, in the State of Virginia, and that he owes to the said State of Virginia for taxes on property owned by him in said city, for the year 1882, twelve dollars and forty-five cents, which said taxes were due and leviable for, under the laws of Virginia, on the 1st day of December, 1882; that the defendant, Samuel C. Greenhow, is the treasurer of the city of Richmond, and as such is charged by law with the duty of collecting taxes due to the State of Virginia by all residents of said city; that on the 25th day of April, 1883, the defendant, as such treasurer and collector of taxes, made upon the plaintiff demand for payment of the taxes due by said plaintiff to said State as aforesaid; and that the plaintiff, when demand was so made for payment of his taxes, tendered to the defendant in payment thereof forty-five cents in lawful money of the United

States, and coupons issued by the State of Virginia, under the provisions of the act of the General Assembly of said State of March 30th, 1871, entitled "An act to provide for the funding and payment of the public debt;" that said coupons so tendered by plaintiff were all due and past maturity, and amounted
4 in the aggregate to twelve dollars, and were all cut from bonds issued by the said State of Virginia, under the provisions of the act aforesaid, of March 30, 1871; that the said coupons and money so tendered by the plaintiff amounted together to exactly the sum so due the State by the plaintiff for taxes; that the said defendant refused to receive the said coupons and money so tendered in payment of plaintiff's taxes; and that the defendant, after said tender was made, as he deemed himself required to do by the acts of Assembly of Virginia, entered the plaintiff's place of business in said city, and in the presence of plaintiff's customers and clients levied upon and took possession of a desk, the property of the plaintiff, and upon which desk the plaintiff, at the time of said levy, was writing in the usual course of his daily avocations, for the purpose of selling the same to pay the plaintiff's said taxes; that the said desk is worth at least thirty dollars, and is now in the possession of said defendant, and that the plaintiff has made demand upon the defendant before the institution of this warrant for the return of the said property, and that the defendant refused to return it.

It is further agreed between the plaintiff and defendant that this cause shall be submitted to the judgment of the court upon this agreed statement of facts, with any right to appeal to either party that they may have under the law. If the court shall be of opinion that the law is with the plaintiff, then it is agreed that judgment may go against the defendant; and if the court shall be of opinion that the law is with the defendant, then it is agreed that judgment shall go for the defendant.

E. C. MINOR,
WM. L. ROYALL,
Attorneys for Plaintiff.
S. B. WITT,
Com. Atty. for City Richmond, Va.

5 The court is of opinion that the police justice erred in deciding that he had no jurisdiction to try the issue between the plaintiff and the defendant, and that the said issue in this action might have been tried by him, and is now tried by this court; but the court is further of opinion that in tendering, as set forth in said agreed statement of facts, to the defendant, as part of the tender in payment of plaintiff's taxes, the coupons mentioned and described in the said agreed statement of facts, the plaintiff did not tender, neither in manner and form as required by law, nor what the defendant was, as treasurer, obliged

to, or should have received in payment of plaintiff's taxes, under the provisions of the act of the General Assembly of the State of Virginia, approved January 26, 1882, entitled, "An Act to provide for the more efficient collection of the Revenue to support Government, maintain the Public Schools, and to pay interest on the Public Debt;" and that the plaintiff's remedy for the failure of the defendant, as treasurer, to receive coupons in payment of taxes, is to be found in the provisions of said act of January 26, 1882; and that, therefore, the defendant does not unlawfully or wrongfully detain the plaintiff's property levied on by said defendant, as treasurer of the city of Richmond, for plaintiff's taxes. Therefore it is considered by the court that the plaintiff take nothing by his writ, but that he be in mercy, &c., for his false clamor, and that the defendant go thereof without day, and recover against the plaintiff his costs by him about his defense, in this behalf expended.

6 And at the instance of the counsel for the plaintiff, the court certifies, that in the record, and at the hearing of this case, there was drawn in question the validity of the act of the General Assembly of Virginia, approved January 26th, 1882, entitled, "An Act to provide for the more efficient collection of the Revenue to support Government, maintain the Public Schools, and to pay the interest on the Public Debt;" and the validity of the 18th section of the act of the General Assembly of the State of Virginia, approved April 1st, 1879, entitled, "An Act to amend and re-enact an Act entitled an Act prescribing the duties, powers, liabilities and compensation of certain county officers providing for the collection of taxes, and for the repeal of chapters 37 and 46, Code of 1873, approved March 29, 1875, as amended by an act approved March 29, 1876, amending sections 15 and 30, and by an act approved the same day amending section 47, and by an act approved March 20, 1877, and by an act approved April 2d, 1877, amending the 18th and 20th sections, and by an act approved on the same day amending the 30th section; and by three several acts approved March 12, 1878, amending the 7th, 6th and 29th sections of said first-mentioned act, and to repeal all acts, and parts of acts, inconsistent herewith," upon the ground that the said first-named, and the said 18th section of said last-named act, are repugnant to section 10, of article 1, of the Constitution of the United States; and that the judgment of the court is in favor of the validity of said acts, and against the rights claimed by the plaintiff under the said section and article of the said Constitution.

And the court further certifies that under the laws of the State of Virginia no appeal lies from the judgment of the court in this case to any other court.

7 In testimony that the foregoing is a true transcript from the record of the said hustings court of the city of

Richmond, I have hereunto set my hand and affixed the seal of the said court, this 25th day of May, 1883.

[SEAL] W. P. LAWTON, *Clerk*,
Hustings Court, City of Richmond, Virginia.

Defendant's costs, $3.91.
Record, fee and tax, $4.37.

STATE OF VIRGINIA,
City of Richmond, } to wit:

I, Thomas S. Atkins, judge of the hustings court of the city of Richmond, in the State of Virginia, do hereby certify that William P. Lawton, whose name is signed to the foregoing writing, is now, and was at the time of signing the same, clerk of the hustings court of the city of Richmond, duly qualified according to law, that his signature is genuine, and that all of his official acts are entitled to full faith and credit.

Given under my hand, at the city of Richmond, this 25th day of May, 1883.

THOS. S. ATKINS,
Judge of the Hustings Court of the City of Richmond, Virginia.

STATE OF VIRGINIA,
City of Richmond, } to wit:

I, William P. Lawton, clerk of the hustings court of the city of Richmond, in the State aforesaid, do hereby certify
8 that Thomas S. Atkins, whose name signed to the foregoing certificate, is now, and was at the time of signing the same, judge of the hustings court of the city of Richmond, duly qualified according to law; that his signature is genuine, and that all of his official acts are entitled to full faith and credit.

Witness my hand, this 25th day of May, 1883.

W. P. LAWTON, *Clerk.*

9 *To the Honorable Justices of the Supreme Court of the United States:*

Your petitioner, Thomas Poindexter, would respectfully represent that he is aggrieved by a judgment entered by the hustings court of the city of Richmond, Virginia, on the 24th day of May, 1883, in a suit wherein your petitioner was plaintiff and Samuel C. Greenhow, treasurer of the city of Richmond, Virginia, was defendant. A transcript of the record of said cause is presented herewith, from which the following facts will appear:

Your petitioner is a resident of Richmond city, and a taxpayer therein, and he was assessed with the sum of $\$12\frac{45}{100}$ to be paid to the State of Virginia as taxes for the year 1882, which sum was due and leviable for on and after December 1st, 1882.

On the 25th day of April, 1883, the defendant, whose duty it is to collect the State's taxes in Richmond city, made demand upon petitioner for payment of his taxes, and petitioner thereupon tendered to him, in payment thereof, forty-five cents in lawful money of the United States, and coupons issued by the State of Virginia under the provisions of the act of the General Assembly of said State of March 30th, 1871, entitled "An act to provide for the funding and payment of the public debt," which
10 coupons were all due and past maturity, and amounted in the aggregate to twelve dollars, and were all cut from bonds issued by the State of Virginia under the provisions of the aforesaid act of March 30th, 1871.

That the defendant refused to receive the said coupons and money in payment of said taxes, and immediately levied upon a desk, the property of the plaintiff, worth about $30, and took possession of the same to sell the same and pay the plaintiff's taxes, as he deemed himself required to do by certain acts of assembly, which the court certifies to have been drawn in question as contrary to the Constitution of the United States.

Your petitioner therefore commenced proceedings in detinue before the police justice of the city of Richmond to recover possession of the said desk, but the police justice decided against him. He therefore appealed to the hustings court of the city of Richmond, and that court likewise decided against him, certifying that the act of assembly which forbade the defendant to receive said coupons, and the act of assembly which commanded the defendant to levy for said taxes after said tender, were valid acts, and that the plaintiff's only remedy was to proceed under the aforesaid act of January 26th, 1882.

Your petitioner claims that when the State of Virginia issued her aforesaid coupons she made a contract with whosoever
11 might be the holder thereof that they should be received in payment of taxes due to her, and that the act of her General Assembly forbidding the defendant to receive the same, and the act of her General Assembly commanding the defendant to levy after a tender of the same, impair the obligation of his contract, and are repugnant to section ten of article one of the Constitution of the United States, and that it was error in the said hustings court to sustain the said acts as valid, and to deny to your petitioner a judgment for his said property, and that the said hustings court thereby denied to your petitioner a right under the Constitution of the United States.

Your petitioner shows that the said hustings court is the highest court in the State in which a decision in his case could be had.

Your petitioner therefore prays that a writ of error and supersedeas may be awarded to him, directed to the said hustings

court of the city of Richmond, Virginia, commanding it to remove the record of said suit and judgment and proceedings into the Supreme Court of the United States, to be there reviewed, reversed, and determined upon, as to that Honorable Court shall seem right.

THOMAS POINDEXTER,
BY WM. L. ROYALL,
His Attorney.

12 UNITED STATES OF AMERICA, *ss.*:

The President of the United States of America, to the honorable the judge of the hustings court of the city of Richmond, State of Virginia, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said hustings court, before you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between Thomas Poindexter, plaintiff, and Samuel C. Greenhow, treasurer of the city of Richmond, Virginia, defendant, wherein was drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision was against their validity; or wherein was drawn in question the validity of a statute of, or an authority exercised under, said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity; or wherein was drawn in question the construction of a clause of the Constitution, or of
13 a treaty, or statute of, or commission held under the United States, and the decision was against the title, right, privilege, or exemption specially set up or claimed under such clause of the said Constitution, treaty, statute, or commission; a manifest error hath happened to the great damage of the said plaintiff, as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the second Monday of October next, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness the Honorable Morrison R. Waite, Chief Justice of

the said Supreme Court, the fourth day of August, in the year of our Lord one thousand eight hundred and eighty-three.

JAMES H. McKENNEY,
Clerk of the Supreme Court of the United States.

Allowed by—
M. R. WAITE,
Chief Justice U. S.
Aug. 2, 1883.

14 VIRGINIA: In the clerk's office of the Hustings Court of the city of Richmond, August 14, 1883.

I, William P. Lawton, clerk of the hustings court of the city of Richmond, in the State of Virginia, do hereby certify that a copy of the within writ is on file in my office.

Given under my hand this 14th day of August, 1883.

W. P. LAWTON,
Clerk of the Hustings Court of the City of Richmond, Va.

15 The United States of America to Samuel C. Greenhow, treasurer of the city of Richmond, Virginia, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the hustings court of the city of Richmond, Virginia, wherein Thomas Poindexter is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in the said writ of error mentioned should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this second day of August, in the year of our Lord one thousand eight hundred and eighty-three.

M. R. WAITE,
Chief Justice U. S.

16 On this tenth day of August, in the year of our Lord one thousand eight hundred and eighty-three, personally appeared Edmund C. Minor before me, the subscriber, M. F. Pleasants, clerk of the circuit court of the United States for the eastern district of Virginia, and United States commissioner, and makes oath that he delivered a true copy of the within citation to Samuel C. Greenhow, treasurer of the city of Richmond, Virginia, on this tenth day of August, 1883.

Sworn to and subscribed the 10th day of August, A. D. 1883.

M. F. PLEASANTS,
Clerk U. S. Circuit Court Eastern Dist. of Va. and U. S. Com'r.

VIRGINIA: In the Clerk's office of the Hustings Court of the city of Richmond, August 14, 1883.

I, William P. Lawton, clerk of the hustings court of the city of Richmond, in the State of Virginia, do hereby certify that a copy of the within citation is on file in my office.

Given under my hand this 14th day of August, 1833.

W. P. LAWTON,
Clerk of the Hustings Court of the City of Richmond, Va.

17 Know all men by these presents, That we, Wm. L. Royall and Wm. R. Trigg, are held and firmly bound unto Samuel C. Greenhow, treasurer of the city of Richmond, Va., in the full and just sum of five hundred dollars, to be paid to the said Samuel C. Greenhow, treasurer, &c., his certain attorney, executors, administrators, or assigns: to which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals, and dated this 4th day of August, in the year of our Lord one thousand eight hundred and eighty-three.

Whereas, lately at a hustings court of the city of Richmond, Va., in a suit depending in said court, between Thomas Poindexter and Samuel C. Greenhow, treasurer, &c., a judgment was rendered against the said Thomas Poindexter, and the said Thomas Poindexter, having obtained a writ of error and filed a copy thereof in the clerk's office of the said court to reverse the judgment in the aforesaid suit, and a citation directed to the said Samuel C. Greenhow, citing and admonishing him to be and appear at a Supreme Court of the United States, to be holden at Washington the second Monday of October next.

Now, the condition of the above obligation is such, That if the said Thomas Poindexter shall prosecute said writ of error to effect, and answer all damages and costs if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

Sealed and delivered in the presence of Wm. L. Royall.

WM. L. ROYALL, [SEAL.]
W. R. TRIGG, [SEAL.]

Approved by—
M. R. WAITE,
Chief Justice U. S.
AUGUST 2, 1883.

18 STATE OF NEW YORK, *City of New York, ss:*

William R. Trigg, being first duly sworn, deposes and says, that he is a citizen of the State of Virginia, and that he is worth the sum of five hundred dollars, over and above all just obligations and debts, and that he has executed the within bond.

W. R. TRIGG.

Sworn to before me this 28th day of July, 1883.

[SEAL.] R. A. PIPER,
Notary Public N. Y. C., &c.

VIRGINIA: In the Clerk's Office of the Hustings Court of the City of Richmond, August 14, 1883.

I, William P. Lawton, clerk of the hustings court of the city of Richmond, in the State of Virginia, do hereby certify that the foregoing is a true copy of a bond, the original of which is on file in my office.

Given under my hand this 14th day of August, 1883.

W. P. LAWTON,
Clerk of the Hustings Court of the City of Richmond, Va.

Endorsed on cover: Virginia, city of Richmond, Hustings Court, No. 969. Thomas Poindexter, plaintiff in error, *vs.* Samuel C. Greenhow, treasurer of the city of Richmond, Virginia. Filed 22d September, 1883.